REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed November 16, 2007. Through this response, claims 1-3, 7, 17, and 28 have been amended, and claims 21 and 32-36 have been canceled without prejudice, waiver, or disclaimer. Reconsideration and allowance of the application and pending claims 1-14, 16-20, 22-23, 25-29, and 31 are respectfully requested.

I.   Claim Rejections - 35 U.S.C. § 102(e)

A.   Statement of the Rejection

Claims 1, 3, 4, 13, 14, 16, 17, 19-23, 25-29, 31-32, and 34-36 have been rejected under 35 U.S.C. § 102(e) as allegedly anticipated by *Bryant et al.* ("*Bryant*," U.S. Pat. No. 2004/0201690). Applicants respectfully traverse this rejection where not rendered moot by amendment.

B.   Discussion of the Rejection

It is axiomatic that "[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration." *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983). Therefore, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(e).

In the present case, not every feature of the claimed invention is represented in the *Bryant* reference. Applicants discuss the *Bryant* reference and Applicants' claims in the following.

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Independent Claim 1

Claim 1 recites (with emphasis added):

1.   A method implemented by a digital camera, comprising the steps of:
        displaying an image captured by a photosensor of the digital camera;
        receiving a first user input corresponding to the image displayed by a digital camera, the first user input comprising a designation of the displayed image as a favorite image;
        down-sampling image data corresponding to the displayed image responsive to the first user input; and
        storing the down-sampled image data in non-volatile memory.

Applicants respectfully submit that the rejection to claim 1 has been rendered moot.

Additionally, Applicants respectfully submit that *Bryant* fails to disclose, teach, or suggest at least the above-emphasized features. *Bryant* discloses the following on paragraphs 0051 and 0052 with regard to timing of compression (emphasis added):

0051] The processor 320 performs color interpolation followed by color and tone correction, in order to produce rendered sRGB image data. The processor 320 can also provide various image sizes selected by the user, for example, 3.1 megapixel (MP) "best quality" images, 2.2 MP "better quality" images, 0.8 MP "e-mail quality" images, and 0.4 MP "web quality" images. The rendered sRGB image data is then JPEG compressed and stored as a JPEG image file on the removable memory card 330. The JPEG file uses the so-called "Exif" image format defined in "Digital Still Camera Image File Format (Exif)" version 2.1, July 1998 by the Japan Electronics Industries Development Association (JEIDA), Tokyo, Japan. This format includes an Exif application segment that stores particular image metadata, for example, the date and time the picture was captured, the lens f/number and other camera settings, and image captions or comments that can be selected or entered by the camera user. In some embodiments of the present invention, this metadata can include metadata identifying favorite images and groups of images. In other embodiments, the favorites and grouping metadata is provided in a separate control file. The control processor and timing generator 304 also provide a real-time clock value to the image processor 320, which can stored this value as date/time metadata in each image file.

[0052] The processor 320 also creates a low-resolution "thumbnail" size image, which can be created as described in commonly-assigned U.S. Pat. No. 5,164,831, entitled "Electronic Still Camera Providing Multi-Format Storage Of Full And Reduced Resolution Images" to Kuchta, et al., the disclosure of which is herein incorporated by reference. In a preferred embodiment, this thumbnail image has 160.times.120 pixels, to

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conform to the DCF rules described later, and is stored in RAM memory 326 and supplied to a color LCD image display 332. <u>After images are captured, they can be quickly reviewed on the color LCD image display 332 by using the thumbnail image data</u>. The digital camera 300 can also include a video output driver 390 for displaying the captured images and the graphical user interface on a separate TV monitor 392.

In other words, once an image is captured, compression appears to be a matter of course in *Bryant*. The review and tagging appears to be implemented post-compression, as set forth in paragraph 0054:

> As will be described later with reference to FIG. 3A, when the user presses the "review" button 368 (see FIG. 4), the last captured image is displayed on the color image display 332. The user can display other images by pressing the left and right arrows of joystick controller 360. The user can press the "favorite" button 364 to tag the displayed image as a favorite image. The user can press the "group" button 362 to indicate the beginning of a new group of images.

In contrast to *Bryant*, the language of claim 1 recites receiving "a first user input corresponding to the image displayed by a digital camera, the first user input comprising a designation of the displayed image as a favorite image,'" which refers in one embodiment to a user designating an image on the display as a favorite. The claim language continues by reciting ***down-sampling image data corresponding to the displayed image responsive to the first user input***. In other words, according to claim 1, the image has yet to be compressed or downsampled at the time of the favorites designation, since the downsampling is responsive to the first input that designated the displayed image as a favorites. Thus, in the embodiment of claim 1, there is discernment between images when deciding whether to implement downsampling or compression, and efficiency in operation since not all images are those a user would choose to save in the camera. Accordingly, Applicants respectfully submit that claim 1 is allowable over *Bryant*, and respectfully request that the rejection be withdrawn.

Because independent claim 1 is allowable over *Bryant*, dependent claims 3 and 4 are allowable as a matter of law for at least the reason that the dependent claims 3 and 4 contain all elements of their respective base claim. See, *e.g.*, *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

Independent Claim 13

Claim 13 recites (with emphasis added):

13.   A method implemented by a digital camera, comprising the steps of:
receiving a plurality of user inputs corresponding to a plurality of respective images displayed by the digital camera;
designating the plurality of images as favorite images responsive to the plurality of respective user inputs;
responsive to the plurality of user inputs:
down-sampling the plurality of images; and
storing the down-sampled images in non-volatile memory in the digital camera;
receiving another user input corresponding to an option to display favorite images; and
displaying at least one of the plurality of images responsive to receiving the other user input.

Applicants respectfully submit that *Bryant* fails to disclose, teach, or suggest at least the above-emphasized features. The compression or downsampling of images is different (e.g., different timing) in *Bryant* than what is claimed. In claim 13, the displayed images are "designated," and then ***downsampled*** responsive to the inputs that causes the designations. In contrast, all images displayed by *Bryant*'s camera have been compressed or downsampled before display. Accordingly, Applicants respectfully request that the rejection to claim 13 be withdrawn.

Because independent claim 13 is allowable over *Bryant*, dependent claims 14 and 16 are allowable as a matter of law.

Independent Claim 17

Claim 17 recites (with emphasis added):

17.   A digital camera comprising:
non-volatile memory;
user input keys;
a display screen configured to display an image captured by the digital camera and display a favorites menu option in response to selection of one of the user input keys; and
at least one processor that is programmed to:
down-sample image data corresponding to an image displayed by the digital camera responsive to the selection of the one of the user input keys corresponding to the favorites menu option; and
provide the down-sampled image data to the non-volatile memory.

Applicants respectfully submit that the rejection to claim 17 has been rendered moot. Additionally, Applicants respectfully submit that *Bryant* fails to disclose, teach, or suggest at least the above-emphasized features. The camera of *Bryant* does not disclose a *display screen configured to display a favorites menu option in response to selection of one of the user input keys*. Additionally, and for similar reasons set forth above in claim 1, the downsampling of the image does not occur after designation as a favorite in *Bryant*, in contrast to what is required by claim 17. Accordingly, Applicants respectfully submit that claim 17 is allowable over *Bryant*, and respectfully request that the rejection to claim 17 be withdrawn.

Because independent claim 17 is allowable over *Bryant*, dependent claims 19-21 are allowable as a matter of law.

Independent Claim 22

Claim 22 recites (with emphasis added):

22.   A digital camera comprising:
a display; and
at least one processor that is programmed to:
        ***designate a plurality of images as favorite images
responsive to the digital camera receiving a plurality of
respective user inputs***; and
        provide image data corresponding to at least one of the
plurality of images to the display responsive to the digital camera
receiving another user input corresponding to an option to display
favorite images,
        ***wherein the at least one processor is further
programmed to down-sample data corresponding to each of
the plurality of images responsive to each of the plurality of
respective user inputs***.

Applicants respectfully submit that *Bryant* fails to disclose, teach, or suggest at least
the above-emphasized features.   In claim 22, the processor designates an image as a
favorite image responsive to user input and downsamples the images responsive to the
input that causes the processor to make the designations. As set forth above in association
with claim 1, by the time a user has selected a favorites button in *Bryant*, the image has
already been compressed and hence such an operation is not the same as or equivalent to
claim 22. Accordingly, Applicants respectfully submit that claim 22 is allowable over *Bryant*,
and respectfully request that the rejection to claim 22 be withdrawn.

Because independent claim 22 is allowable over *Bryant*, dependent claims 23 and
25-27 are allowable as a matter of law.

Independent Claim 28

Claim 28 recites (with emphasis added):

28.　A digital camera comprising:

means for receiving a plurality of user inputs corresponding to a plurality of respective images displayed by the digital camera;
means for designating the plurality of images as favorite images responsive to the plurality of respective user inputs;
means for down-sampling the plurality of images responsive to the plurality of respective user inputs;
means for storing the down-sampled images; and
means for displaying at least one of the plurality of images responsive to receiving another other user input corresponding to an option to display favorite images.

Applicants respectfully submit that the amendments to claim 28 have rendered the rejection moot. Further, Applicants respectfully submit that *Bryant* fails to disclose, teach, or suggest at least the above-emphasized features. The means for down-sampling as recited in claim 28 is responsive designations of displayed images as favorites prompted by user input. As explained above, *Bryant* appears to display images (and hence enable favorites selections) post-compression or downsampling. Accordingly, Applicants respectfully submit that claim 28 is allowable over *Bryant*, and respectfully request that the rejection to claim 28 be withdrawn.

Because independent claim 28 is allowable over *Bryant*, dependent claims 29 and 31 are allowable as a matter of law.

Due to the shortcomings of the *Bryant* reference described in the foregoing, Applicants respectfully assert that *Bryant* does not anticipate Applicants' claims. Therefore, Applicants respectfully request that the rejection of these claims be withdrawn.

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II.   Claim Rejections - 35 U.S.C. § 103(a)

A.   Statement of the Rejection

Claims 2, 6, 8, 10-12, and 33 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Bryant*. Claims 5 and 18 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Bryant* and further in view of *Anderson* ("*Anderson*," U.S. Pat. No. 5,973,734). Claims 7 and 9 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Bryant* and further in view of *Cazier et al.* ("*Cazier*," U.S. Pat. No. 6,900,835). Applicants respectfully traverse these rejections.

B.   Discussion of the Rejection

The U.S. Patent and Trademark Office ("USPTO") has the burden under section 103 to establish a *prima facie* case of obviousness according to the factual inquiries expressed in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). The four factual inquires, also expressed in MPEP 2100-116, are as follows:

(A)   Determining the scope and contents of the prior art;

(B)   Ascertaining the differences between the prior art and the claims in issue;

(C)   Resolving the level of ordinary skill in the pertinent art; and

(D)   Evaluating evidence of secondary considerations.

Applicants respectfully submit that a *prima facie* case of obviousness is not established using the art of record.

Claims 2 and 6

As set forth above, Applicants respectfully submit that claim 1 is allowable over *Bryant*. As *Bryant* does not remedy the deficiencies set forth above for claim 1, to the extent claims 2 and 6 incorporate the allowable claim 1 features, claims 2 and 6 are allowable as a matter of law.

Independent Claim 8

Claim 8 recites (with emphasis added):

8.   A method implemented by a digital camera, comprising the steps of:

receiving a first user input corresponding to an image displayed by a digital camera; and

responsive to receiving the first user input:

retrieving image data corresponding to the image from a removable memory card coupled to the digital camera; and

storing image data corresponding to the image in non-volatile memory that is part of the digital camera.

Applicants respectfully submit that *Bryant* fails to disclose, teach, or suggest at least the above-emphasized features. The non-final Office Action admits (page 9) that *Bryant* does not "disclose that memory 326 is a non-volatile memory" in reference to the above-emphasized features. However, the non-final Office Action alleges the following (page 9):

On the other hand, it is obvious to one of ordinary skill in the art at the time the invention was made to implement memory 326 as non-volatile memory to store image data because such implementation eliminates user's burden of carrying a non-volatile memory unit along with the camera.

Applicants respectfully disagree that storing the image data in non-volatile memory ***that is part of the digital camera*** is obvious. It is clear from *Bryant* that content pulled from the memory card 330 (*e.g.*, last captured image) is to be saved back on the memory card, not in non-volatile memory of the camera (see, *e.g.*, paragraph [0078]). Further, Applicants' background section (paragraphs [0001- 0003]) makes it clear that the state of the art does just the opposite to what the final Office Action alleges as obvious. Additionally, the popularity of memory cards would appear to suggest that the alleged "burden" of carrying a memory card is unsubstantiated my the marketplace. For at least these reasons, Applicants respectfully submit that claim 8 is allowable over *Bryant*, and respectfully request that the rejection to claim 8 be withdrawn.

Because independent claim 8 is allowable over *Bryant*, dependent claims 10-12 are allowable as a matter of law.

Claims 5 and 18

As set forth above, Applicants respectfully submit that *Bryant* fails to disclose, teach, or suggest at least the above-emphasized features of independent claims 1 and 17. *Anderson* fails to remedy this deficiency. For at least the reason that claims 5 and 18 incorporate the respective allowable claim features, Applicants respectfully submit that claims 5 and 18 are allowable as a matter of law, and respectfully request that the rejection be withdrawn.

Claims 7 and 9

As set forth above, Applicants respectfully submit that *Bryant* fails to disclose, teach, or suggest at least the above-emphasized features of independent claims 1 and 8. *Cazier* fails to remedy this deficiency. For at least the reason that claims 7 and 9 incorporate the respective allowable claim features, Applicants respectfully submit that claims 7 and 9 are allowable as a matter of law, and respectfully request that the rejection be withdrawn.

In summary, it is Applicants' position that a *prima facie* for obviousness has not been made against Applicants' claims. Therefore, it is respectfully submitted that each of these claims is patentable over the art of record and that the rejection of these claims should be withdrawn.

III.   Canceled Claims

As identified above, claims 21 and 32-36 have been canceled from the application through this response without prejudice, waiver, or disclaimer. Applicants reserve the right to present these canceled claims, or variants thereof, in continuing applications to be filed subsequently.

CONCLUSION

Applicants respectfully submit that Applicants' pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, and similarly interpreted statements, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

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